IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NOS.5816 AND 8711 OF 2005

-

WRIT PETITION NO : 5816 of 2005

Between:

T. Krishna Chaitanya, S/o. Venkateswararao,
R/o. Sekuru (Vill), Chebrolu Mandal, Guntur District.

..... PETITIONER

AND

1 State of A.P., rep. by its Principal Secretary, Medical & Health

Department, Secretariat, Saifabad, Hyderabad.
2 The District Medical and Health Officer, Guntur, Guntur District.
3 The District Collector, Guntur District.
4 The Superintendent, Govt Hospital, Tenali, Guntur District.
5 Municipal Health Officer, Tenali Municipality,
Tenali, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not preventing stale food being supplied to the inpatients in 4th respondent hospital is illegal, irregular and offends Art: 14 and 21 of the Constitution of India and consequently direct the respondents to take immediate preventive steps against supply of such rotten food

and for supply of hygienic and nutritious food to the inpatients in the hospital and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.SATYANARAYANA NIMMAGADDA

Counsel for the Respondents 1 & 2: GP FOR MEDICAL HEALTH & FAMI.WELFARE

Counsel for Respondent No.3:G.P. for Revenue

Counsel for Respondent No.4:MR.S.A.WAHEED SHAHBAZ

Counsel for Respondent No.5:Mr.T.S.Venkata Ramana, Standing Counsel for Municipality

WRIT PETITION NO : 8711 of 2005

Between:

The Diet Contractor, District Hospital Tenali Rep by Vasi Reddy Sivalinga Prasad S/o.Sambasiva rao, R/o.26-6-6/1 Subba Rao Street, Chinnaravuru Tenali, Guntur District.

..... PETITIONER

AND

1 The Government of A.P., Rep by its Principal Secretary, HM & FW Department Secretariat Building, Secretariat Hyderabad.
2 The Commissioner, A.P.Vaidya Vidhana Parishad Sulthan Bazar, Hyderabad.
3 The District Coordinator of Hospital Services, District Head Quarters Hospital, Tenali Guntur District.
4 The Medical Superintendent, District Hospital, Tenali Guntur

District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order or orders, direction or directions, writ or writs, particularly one in the nature of Writ of Mandamus declaring the action of the 4th respondent in issuing order in Rc.No.376/Dietitian/DH/TNL/05 dt.15-04-05 is arbitrary, illegal & null and void and contrary to the G.O.Ms.No.539, Health Medical & Family Welfare (M7) Dept dt.8-11-1993, G.O.Ms.No.32, Health Medical & Family Welfare(M1) Dept, dt.2-2-2005 and violative of Principles of natural Justice and set aside the same, consequently direct the respondent authorities to renew the petitioner's diet contract period in pursuance of G.O.Ms.No.32, Health Medical & Family Welfare (M1) Dept, dt.2-2-2005 and to pass such other order or orders.

Counsel for the Petitioner:MR.K.L.N.SWAMY

Counsel for the Respondent No. 1: GP FOR MEDICAL HEALTH & FAMI.WELFARE

Counsel for Respondent Nos. 2 to 4:MR.S.A.WAHEED SHABAZ, Standing Counsel for APVVP

The Court at the stage of admission made the following :

COMMON ORDER (Per the Hon'ble Sri Bilal Nazki, ACJ):

WRIT PETITION NO.8711 OF 2005

Heard learned counsel for the petitioner.

This writ petition has been filed by the petitioner stating that he was supplying diet to the inpatients and doctors in the fourth respondent hospital from 09-08-2000 to till date. It is stated that all diet contractors in the entire State of Andhra Pradesh made representations to the Government of Andhra Pradesh for consideration of their cases for grant of contract period for a minimum period of five years. The Government has considered the representations and issued G.O.Ms.No.32, HM & FW (M1) Department, dated 02-02-2005 directing all the hospitals to consider the diet contractors' request for renewal of diet contract for a minimum period of three years with a condition that if the performance found to be unsatisfactory, the contract would not be renewed. It is submitted that by G.O.Ms.No.32, the contract of some of the contractors was extended by three years. As the performance of the petitioner was found satisfactory, a certificate to that effect was also issued to the petitioner and the fourth respondent called for his willingness on 11-03-2005 to continue the contract. His willingness was forwarded to the Commissioner of A.P.Vaidya Vidhana Parishad to extend the contract from 01-04-2005 to 31-03-2006. But, all of a sudden, on 18-04-2005, he received the order of the fourth respondent terminating the contract. He submits that without an enquiry and without any show cause notice, the contract has been cancelled.

Vacate stay petition has been filed by the respondents 2 to 4. In the counter

they have stated that no agreement has been entered into till today with the petitioner and there is no contract with the petitioner for the period 2005-2006. It is submitted further that after the consent of the contractors was taken in a meeting by the Hospital Development Society, it was decided that status quo be continued till alternative arrangements are made and as such contract was not extended. But, in the meantime, second respondent after considering the facts of the diet contractor's performance and in the interest of public at large to run the hospital smoothly and to meet the expectations of the public, instructed other respondents to terminate the services of the petitioner with immediate effect and to call for fresh tenders.

WRIT PETITION NO.5816 OF 2005

This writ petition has been filed in public interest, in which it is stated that the diet contractor was supplying adulterated food to the inpatients of the Government Hospital, Tenali, and the food supplied by him was not fit for human consumption. The fifth respondent had collected sample of curd, which was being served and was sent to the Public Analyst. The Public Analyst issued a report declaring the sample to be adulterated. In spite of such reports, no action was taken to prosecute the diet contractor and the dietician.

In the counter filed by the fourth respondent to this writ petition, it is admitted that the curd sample had been taken and sent to the Public Analyst. The Public Analyst had opined that the curd was adulterated and permission to prosecute the contractor has already been obtained and the case is pending before the Magistrate. It is also submitted that it was true that on 02-01-2005 the patients in the Hospital made complaint against the contractor that the cooked rice was over roasted and the 'sambar' that was served contained dead rodents. The same was also published in the newspapers on 04-01-2005 and a memo had been given to the contractor for supply of quality diet to the patients.

In view of these facts, it is crystal clear that the contractor-petitioner in W.P.No.8711 of 2005 is not supplying the food, which is fit for human consumption and also there was no contract with the petitioner to continue beyond 31-03-2005. In any case, if there is any contract or any violation of the terms of the contract, the remedy for the

writ petitioner in W.P.No.8711 of 2005 is not the writ petition. In these circumstances, W.P.No.8711 of 2005 is dismissed. Stay vacated. W.P.No.5816 of 2005 is allowed and the respondents are directed to call for fresh tenders and ensure that quality food is supplied to the patients in the hospitals.

W.P.No.8711 of 2005 is dismissed and W.P.No.5816 of 2005 is allowed. No order as to costs.

_____

(Bilal Nazki, ACJ)

17th June, 2005

_____

(G.Chandraiah,J)

vrn

To

1 The Principal Secretary, State of A.P., Medical & Health

Department, Secretariat, Saifabad, Hyderabad.
2 The District Medical and Health Officer, Guntur, Guntur District.
3 The District Collector, Guntur District.
4 The Superintendent, Government Hospital, Tenali, Guntur

District.
5 The Municipal Health Officer, Tenali Municipality,
Tenali, Guntur District.

6 The Commissioner, A.P.Vaidya Vidhana Parishad
Sulthan Bazar, Hyderabad.
7 The District Coordinator of Hospital Services,
District Head Quarters Hospital, Tenali Guntur District.
8 The Medical Superintendent, District Hospital, Tenali Guntur

District.

9 Two C.Cs to the G.P.for Medical, Health and Family Welfare,

High Court Buildings, A.P., Hyderabad (OUT)

10 Two C.Cs to the G.P. for Revenue, High Court Buildings, A.P.,

Hyderabad (OUT)